



**Senate Ways and Means Committee  
February 25, 2009  
Testimony on SB 141**

Good morning Mr. Chairman, Vice Chairs, and members of the Committee. I am Joe Tilghman, a retired regional administrator for the Centers for Medicare and Medicaid and the chairman of the Kansas Health Policy Authority Board. I appreciate the opportunity to testify today before the Senate Ways and Means Committee on SB 141.

The integrity of Kansas Medicaid, the State Children's Health Insurance Program, and the State Employee Health Plan are of the utmost importance to the KHPA Board and the agency. The commitment to integrity begins with our vision principles. Stewardship is one of six principles that guide the agency's actions and priorities: "The Kansas Health Policy Authority will administer the resources entrusted to us by the citizens and the State of Kansas with the highest level of integrity, responsibility and transparency." The Board and staff take very seriously the responsibility of managing over \$2 billion of health care spending, and health care services for nearly 400,000 Kansans. The agency programs are overseen and audited by five state and federal entities and millions of dollars are spent to ensure payment accuracy each year.

In 2007, the KHPA actively supported the creation of the Office of the Inspector General (OIG). The Board believes that the OIG provides an additional mechanism to improve the functionality of the KHPA and ensure accountability to Kansas citizens. As was the case in 2007, we believe that the current location of the OIG within the structure of the agency itself -- and responsible to the KHPA Board of Directors -- is the most desirable placement. This model has a longstanding history within the federal government, and has demonstrated significant capacity to deter fraud, waste, and abuse as well as improve agency operations. Housing the OIG within the agency gives the OIG staff an opportunity to gain an in-depth understanding of the health care services operated by KHPA. It also provides an opportunity for interaction between OIG and agency staff, who both benefit from shared knowledge and insights about the complex statutes, regulations, and policies that guide the agency's actions.

The OIG is a critical part of the overall capacity of KHPA to conduct audits and investigate concerns from the public. The KHPA Board views the role of the OIG as an additional independent actor to audit, evaluate, and investigate agency operations and business practices. The internal audit capacity of KHPA is limited to financial and compliance audits. The OIG adds a dimension, especially with agency performance auditing, that the Board would lose if SB 141 were enacted.

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Accordingly, we support the current structure of the OIG residing within the KHPA.

There are a few additional concerns with SB 141. The bill broadens the functions of the OIG but does not clearly define the new functions. The original statute specified that the OIG would investigate fraud, waste, abuse, and illegal acts by KHPA. Apart from “waste”, these terms have uniform meaning and are not generally subject to interpretation. SB 141 adds to those terms the additional requirements to “investigate inefficiency, mismanagement, and misconduct” with mandatory referral of findings to the Attorney General. The terms inefficiency, mismanagement, and misconduct are not standardized terms within health care delivery that have universal meaning and the bill provides no statutory definition. Because the state currently relies on the Attorney General's resources to prosecute fraudulent activities in the Medicaid program and this bill requires the OIG to refer any evidence of inefficiency, mismanagement, or misconduct to the Attorney General, there is concern about ensuring that fraud, waste, and abuse investigations remain the top priority. It is also unclear how the state's prosecutorial agency would address lawful acts interpreted by the OIG to be inefficient or representative of “mis-management”.

Although the agency supports the current configuration of the OIG as part of the KHPA, the Board acknowledges the purview of the legislature in structuring the office. Thank you for hearing the concerns of the KHPA Board related to SB 141 and I am happy to stand for questions.